ment." BIDDLE, DIVORCE, 170. In Kentucky the court held that the attorney's fees and other costs ordered to be paid, in divorce proceedings, made abortive by the wife's death, could be enforced in a summary way by attachment and imprisonment. *Ballard* v. *Caperton*, 59 Ky. 412. In New York it is held that the costs of an action for divorce cannot be collected by proceedings to punish for contempt. *Jacquin* v. *Jacquin*, 36 Hun. (N. Y.) 378; *Weil* v. *Weil*, 10 N. Y. Supp. 627; *Branth* v. *Branth*, 13 N. Y. Supp. 360. These cases are all based upon the Civil Code of Procedure of that state, and they appear to be in conflict with the case of *Park* v. *Park*, 80 N. Y. 156, affirming *Park* v. *Park*, 18 Hun. (N. Y.) 466, wherein it is said that the claim that the attachment should be vacated, because it was based upon the refusal of the defendant to pay the costs of the suit, is sufficiently answered by the fact that it was issued for disobedience of the order of the court. In many of the states statutes have been passed permitting the court to enforce the payment of its decrees for alimony, counsel's fees, and costs, by orders and executions, and proceedings as in case of contempt. See *Staples* v. *Staples*, 87 Wis. 592, and note thereto in 24 L. R. A. 433, 439, collecting the statutes and decisions thereunder.

EXECUTORS AND ADMINISTRATORS.—RIGHT OF SET-OFF.—In an action by the administrators of the insolvent estate of the deceased against a bank for the amount of money which the deceased had on deposit to his credit, *Held*: That the bank could set off against this claim the amount of a note of the deceased held by it, although the note had not yet matured. *Conquest* v. *Broadway National Bank* (Tenn. 1916), 183 S. W. 160.

SHANNON'S CODE, § 4137, provides that in cases similar to the principal case, the defendant might plead a set-off of whatever amount is due him from the deceased, in an action by the administrator. But at the time this action was brought there was no amount due from the deceased to the bank. A strict construction of the statute would, therefore, lead to a different result from that reached in the principal case. It is true that the deceased was admittedly insolvent. Now a bank may set off against a deposit the unmatured debts of an insolvent depositor, through an application of the doctrine of equitable set-off. *Nashville Trust Co.* v. *Fourth National Bank*, 91 Tenn. 350, 18 S. W. 822, 15 L. R. A. 710; *Ex parte Howard National Bank*, 16 Nat. Bankr. Reg. 420. This right of the bank has been allowed where it was sued by an assignee for the benefit of creditors when it appeared that the assignor was insolvent. *Fidelity Trust & Safety Vault Co.* v. *The Merchants National Bank*, 90 Ky. 225, 13 S. W. 910, 9 L. R. A. 108; *Demmon* v. *Boylston Bank*, 5 Cush. 194; *New York County National Bank* v. *Massey*, 192 U. S. 138, 24 Sup. Ct. 199, 48 L. Ed. 380: *Contra, Chipman* v. *Ninth National Bank*, 120 Pa. 86, 13 Atl. 707. The right of the bank has been allowed where the bank has been summoned as a garnishee. *Schuler* v. *Israel*, 120 U. S. 506, 7 Sup. Ct. 648, 30 L. Ed. 707: *Contra, The Manufacturers' National Bank* v. *Jones* (Pa.), 2 Penny. 377. Should this right of equitable set-off be extended and allowed in a suit by the administrator of the insolvent depositor, in respect to unmatured

debts which the bank holds against the deceased? While the authorities are somewhat in conflict over this extension, and while the precise question involved has seldom been presented, the true rule seems to be that the death of the depositor and the appointment of an administrator makes no difference in the solution of the problem. This conclusion is supported by the following cases, allowing the set off, *Ford* v. *Thornton,* 3 Leigh (Va.) 695; *Knecht* v. *The United States Savings Institute,* 2 Mo. App. 566; *Mathewson* v. *The Strafford Bank,* 45 N. H. 108; *Camden National Bank* v. *Green,* 45 N. J. Eq. 346, 17 Atl. 689; as well as by *Appeal of The Farmers & Mechanics Bank,* 48 Pa. St. 57, which denied the set-off in a similar action. See also *Howze* v. *Davis,* 76 Ala. 381, where it was held that a legatee could not set off a legacy against a suit by an executor for a debt which the legatee owed the testator. In order to bring Tennessee in line with the more numerous decisions and make it accord with the statute involved in the principal case, the court decided that the statute, being declaratory only of the existing law, could not be narrowly construed; and while the statute only deals with matured obligations, it does not deny the right to an equitable set-off of an unmatured obligation against an insolvent estate, a right created by the Court of Chancery before the statutes.

EVIDENCE.—JUDICIAL NOTICE OF MULE'S KICKING PROPENSITY.—In an action for personal injury sustained by being kicked by a mule which he was driving for the defendant, plaintiff recovered a verdict and judgment. When kicked, the plaintiff was in the act of unhooking a "tail-chain" which was near the mule's heels. He struck the mule to make it go forward, as he had been instructed to do. The mule kicked. *Held,* on appeal, in reversing the judgment of the lower court, "The kicking propensity of the mule is a matter of common knowledge and has been the subject of comment from the earliest time. * * * An employee cannot court danger by inviting and provoking a mule to kick him, and then recover of the master for a consequent injury, on the ground that he is a bona fide cripple without notice. * * * It follows that the trial court should have directed a verdict in favor of the defendant." *Consolidation Coal Co.* v. *Pratt* (Ky. App. 1916), 184 S. W. 369.

Twice at least now, the Kentucky Court has held that it will take judicial notice of the traditional kicking propensity of the unfortunate mule. *Tolin* v. *Terrell,* 133 Ky. 210, 117 S. W. 290. The Missouri Court has also held that "the mule is a domestic animal, whose treacherous and vicious nature is so generally known that even courts may take notice of it." *Borden* v. *The Falk Co.,* 97 Mo. App. 566, 71 S. W. 478. Such a tradition there most certainly is, a tradition originally founded upon an actual propensity, but there may well be some doubt as to whether this propensity still exists as a matter of fact so as to be worthy of judicial notice.

EVIDENCE.—REHABILITATION AFTER IMPEACHMENT OF MORAL CHARACTER ON CROSS-EXAMINATION.—Plaintiff, called as a witness in his own behalf, on his cross-examination testified that he had been convicted of forgery and